

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 910

Introduced by Assembly Member Diaz

February 20, 2003

An act to amend Sections 1255.1 and 1300 of, and to add Division 112 (commencing with Section 130500) to, the Health and Safety Code, relating to hospital community responsibility.

LEGISLATIVE COUNSEL'S DIGEST

AB 910, as amended, Diaz. ~~Hospital service changes—Hospitals: service changes: ownership.~~

Existing law generally establishes requirements for the construction, closure, and operation of acute care hospitals.

~~This bill would prohibit an entity licensed to operate, or seeking licensure for the operation of, a general acute care hospital from closing, opening, or making certain changes in, an acute care hospital unless it submits an independent needs assessment to the county, the State Department of Health Services, and other entities, and the department determines that the proposed change would meet the needs of the community.~~

~~The bill would authorize the department to provide options to ensure that the health needs of the community are met if the department determines that the proposed action would be detrimental to the community. The bill would require each hospital required to submit an independent needs assessment to maintain a reserve that is sufficient to fund a community impact assessment report.~~

~~This bill would prohibit the purchase or construction of a hospital within 100 miles of a hospital owned or operated by a private entity proposing to purchase or construct the hospital.~~

Existing law also provides generally for the licensure and regulation of health facilities, including general acute care hospitals, by the State Department of Health Services. Existing law specifically provides that, before the department approves a downgrade or closure of emergency services, it is required to review a county impact evaluation that determines the impacts of the downgrade or closure on the community, as specified.

Under existing law, a hospital that provides emergency medical services is required to provide notice to the State Department of Health Services and to other specified entities, within 90 days before a planned reduction or elimination of the level of these services, and also to provide notice of the intended change to the public, except under specified circumstances. Existing law also requires a health facility implementing a downgrade or closure to make reasonable efforts to inform the affected community of the change.

This bill would require, except for public hospitals, as defined, that, before approving a downgrade or closure of a hospital or emergency service, the department shall receive a copy of a hospital protection review (HPR) from the county in which the hospital or emergency service is located. The bill would require the county board of supervisors to appoint a hospital protection committee (HPC), with specified membership, to conduct the HPR. The bill would require a hospital to give 365 days notice before a proposed downgrade or closure, and would require the HPR to be completed within 180 days. The bill would require the HPR to include a thorough review of the impact of the downgrade or closure on the community. This bill would require the HPC to hold a hearing to release the results of the HPR, including the HPC's recommendations for mitigation, to specified entities within 180 days before the scheduled downgrade or closure, if the HPR reveals that the capability of the community's health care delivery system would be detrimentally affected by the downgrade or closure. The bill would provide that these procedures would be in addition to the notice required under existing law. Because it imposes new duties on counties, this bill would impose a state-mandated local program.

This bill would also prohibit any person, commencing January 1, 2004, from obtaining or continuing to possess an ownership interest, as



defined, in more than one licensed hospital within the same county, or within a 25-mile radius, unless that person obtains the approval of the Attorney General and enters into a Community Responsibility Contract (CRC) pursuant to the bill. The bill would require the Attorney General, in consultation with the department and the Office of Statewide Health Planning and Development, to establish the specific terms of the CRC and initial approval criteria for multiple hospital ownership. The bill would prohibit a proposed change in service if the Attorney General determines that the change would be inconsistent with the terms of the CRC. The bill would provide that these provisions shall not apply to a public hospital, as defined.

This bill would establish the Hospital Community Responsibility Fund in the State Treasury for purposes of implementing the bill, which would consist of revenues from a specified fee imposed on licensed hospitals. This bill would provide that no state or local funds shall be required for its implementation.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. This act shall be known and may cited as the~~
2 ~~Hospital Community Responsibility Act.~~

3 ~~SEC. 2.—~~

4 *SECTION 1. Section 1255.1 of the Health and Safety Code is*
5 *amended to read:*

6 1255.1. (a) Any hospital that provides emergency medical
7 services under Section 1255 shall, as soon as possible, but not later
8 than 90 days prior to a planned reduction or elimination of the level



1 of emergency medical services, provide notice of the intended
2 change to the state department, the local government entity in
3 charge of the provision of health services, and all health care
4 service plans or other entities under contract with the hospital to
5 provide services to enrollees of the plan or other entity. *The notice*
6 *required by this section shall be in addition to the procedures*
7 *required by Chapter 1 (commencing with Section 130500) of*
8 *Division 112.*

9 (b) In addition to the notice required by subdivision (a), the
10 hospital shall, within the time limits specified in subdivision (a),
11 provide public notice of the intended change in a manner that is
12 likely to reach a significant number of residents of the community
13 serviced by that facility.

14 (c) A hospital shall not be subject to this section or Section
15 1255.2 if the state department does either of the following:

16 (1) Determines that the use of resources to keep the emergency
17 center open substantially threatens the stability of the hospital as
18 a whole.

19 (2) Cites the emergency center for unsafe staffing practices.

20 SEC. 2. Section 1300 of the Health and Safety Code is
21 amended to read:

22 1300. (a) Any licensee or holder of a special permit may, with
23 the approval of the state department, surrender his or her license
24 or special permit for suspension or cancellation by the state
25 department. Any license or special permit suspended or canceled
26 pursuant to this section may be reinstated by the state department
27 on receipt of an application showing compliance with the
28 requirements of Section 1265.

29 (b) (1) Before approving a downgrade or closure of
30 emergency services pursuant to subdivision (a), the state
31 department shall receive a copy of the impact evaluation of the
32 county to determine impacts, including, but not limited to, an
33 impact evaluation of the downgrade or closure upon the
34 community, including community access to emergency care, and
35 how that downgrade or closure will affect emergency services
36 provided by other entities. Development of the impact evaluation
37 shall incorporate at least one public hearing. The county in which
38 the proposed downgrade or closure will occur shall ensure the
39 completion of the impact evaluation, and shall notify the state
40 department of results of an impact evaluation within three days of

the completion of that evaluation. The county may designate the local emergency medical services agency as the appropriate agency to conduct the impact evaluation. The impact evaluation and hearing shall be completed within 60 days of the county receiving notification of intent to downgrade or close emergency services. The county or designated local emergency medical services agency shall ensure that all hospital and prehospital health care providers in the geographic area impacted by the service closure or change are consulted with, and that local emergency service agencies and planning or zoning authorities are notified, prior to completing an impact evaluation as required by this section. This subdivision shall be implemented on and after the date that the county in which the proposed downgrade or closure will occur, or its designated local emergency medical services agency, has developed a policy specifying the criteria it will consider in conducting an impact evaluation, as required by subdivision (c).

(2) This subdivision shall only apply to a public hospital that is not subject to the hospital protection review process required pursuant to Chapter 1 (commencing with Section 130500) of Division 112. This subdivision does not apply to a private hospital.

(c) The Emergency Medical Services Authority shall develop guidelines for development of impact evaluation policies. On or before June 30, 1999, each county or its designated local emergency medical services agency shall develop a policy specifying the criteria it will consider in conducting an impact evaluation pursuant to subdivision (b). Each county or its designated local emergency medical services agency shall submit its impact evaluation policy to the state department and the Emergency Medical Services Authority within three days of completion of the policy. The Emergency Medical Services Authority shall provide technical assistance upon request to a county or its designated local emergency medical services agency.

SEC. 3. Division 112 (commencing with Section 130500) is added to the Health and Safety Code, to read:

DIVISION 112. HOSPITAL COMMUNITY
RESPONSIBILITY

CHAPTER 1. ~~GENERAL~~

~~130500. For purposes of this division:~~

~~(a) "Applicant" means any private entity licensed to operate, or seeking licensure for the operation of, a general acute care hospital pursuant to Chapter 2 (commencing with Section 1250) of Division 2.~~

~~(b) "Department" means the State Department of Health Services.~~

~~(c) "Hospital" means a general acute care hospital.~~

CHAPTER 2. ~~PROPOSED ACUTE CARE HOSPITAL CHANGES THAT
HAVE AN IMPACT ON THE COMMUNITY~~

~~130510. (a) Notwithstanding any other provision of law, no applicant may close, open, expand, or relocate a hospital, or substantially reduce the staffing level of, or the services provided by, a hospital, unless the proposed action is approved by the department as having met the standards adopted pursuant to this division.~~

CHAPTER 3. ~~INDEPENDENT COMMUNITY IMPACT ASSESSMENT~~

~~130520. (a) Prior to taking any of the actions specified in Section 130510, an applicant shall submit an independent community impact assessment report to the appropriate county offices, the State Department of Health Services, and the office of the Attorney General.~~

~~(b) The report required by this section shall contain an independent assessment of the impact on the community by any of the proposed actions specified in Section 130510.~~

CHAPTER 4. ~~REGIONAL NEEDS ASSESSMENT POLICY~~

~~130530. The department, in consultation with the Attorney General, shall develop and adopt a regional needs assessment policy for the implementation of this division.~~

1 ~~130532. (a) The policy developed by the department~~
2 ~~pursuant to Section 130530 shall include a requirement that any~~
3 ~~applicant that proposes to take any action specified in Section~~
4 ~~130510 demonstrate that the proposed action meets the needs of~~
5 ~~the community affected by the proposed action.~~

6 ~~(b) The policy adopted pursuant to this division shall ensure~~
7 ~~that community health needs and community hospitals are~~
8 ~~protected from adverse and detrimental competitive business~~
9 ~~practices.~~

10 ~~130534. (a) The department shall implement a process for~~
11 ~~the review of any location for any proposed new hospital.~~

12 ~~(b) The department shall seek the participation of local hospital~~
13 ~~districts, city and county health agencies, and other appropriate~~
14 ~~local agencies in the area affected by the construction of a new~~
15 ~~hospital.~~

16 ~~130536. The department shall also implement a process to~~
17 ~~review the health needs of a community affected by any hospital~~
18 ~~closure or substantial reduction in services.~~

19
20 CHAPTER 5. ~~HOSPITAL ACTION OPTIONS~~

21
22 ~~130550. If, after conducting a needs assessment, the~~
23 ~~department determines that any proposed action under review~~
24 ~~pursuant to this division would be detrimental to the health needs~~
25 ~~of a community, the department may provide the applicant with~~
26 ~~options that the department determines would protect the health~~
27 ~~needs of the community.~~

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29 CHAPTER 6. ~~MULTIHOSPITAL CORPORATION LIMITS~~

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31 ~~130560. An applicant may not purchase or construct a~~
32 ~~hospital within 100 miles of any hospital owned or operated by the~~
33 ~~applicant.~~

34
35 CHAPTER 7. ~~COMMUNITY IMPACT ASSESSMENT REPORT FUNDING~~
36 ~~RESERVE~~

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38 ~~130800. (a) Every private entity that is a licensee of a hospital~~
39 ~~shall maintain a reserve that is sufficient to fund a community~~
40 ~~impact assessment report, as described in this division, as follows:~~

~~(1) For an entity licensed for not more than _____ beds, the amount of the reserve shall not be less than fifty thousand dollars (\$50,000), but not more than one hundred thousand dollars (\$100,000).~~

~~(2) For an entity licensed for not less than _____ beds, the amount of the reserve shall not be less than one hundred thousand dollars (\$100,000), but not more than one hundred fifty thousand dollars (\$150,000).~~

~~(b) The amount of the reserve shall be established by the department, and shall be appropriate to meet the requirements of this section.~~

CHAPTER 1. HOSPITAL PROTECTION REVIEW

130500. (a) Notwithstanding any other provision of law, the procedures established by this section shall apply to the downgrade or closure of a hospital, including the downgrade or closure of a hospital that provides emergency medical services under Section 1255, except that this section shall not apply to a public hospital, as defined in paragraph (25) of subdivision (a) of Section 14105.98 of the Welfare and Institutions Code.

(b) (1) Before approving a downgrade or closure of a hospital or emergency service, the department shall receive a copy of the hospital protection review (HPR) required by this section.

(2) Notice of the proposed downgrade or closure shall be submitted to the department and the board of supervisors at least 365 days before the proposed date of the downgrade or closure.

(3) The board of supervisors in the county in which the hospital or emergency service is located shall require the performance of the HPR, which shall include a thorough review of the impact of the downgrade or closure of the hospital or emergency service on the community. This review shall include all of the following:

(A) A comprehensive financial disclosure that helps explain the change in hospital care service.

(B) A determination of the ability to treat medical emergencies of patients from communities surrounding the hospital.

(C) A determination of the impact of the downgrade or closure on other surrounding hospitals.

1 (D) An assessment of the overall impact that the downgrade or
2 closure has on the uninsured, the elderly, children, and various
3 other underrepresented groups in the service area of the hospital.

4 (E) An assessment of the overall impact that the service change
5 or closure will have on the capability of the health care delivery
6 system to serve each surrounding community.

7 (4) The HPR shall be performed by a hospital protection
8 committee, convened by the board of supervisors. The HPC shall
9 consist of the following nine members:

10 (A) Two members nominated by an organization representing
11 the majority of acute care hospitals in the county.

12 (B) Two members nominated by organizations representing
13 registered staff nurses.

14 (C) Two members nominated by organizations representing
15 emergency physicians and surgeons.

16 (D) Three members selected by the board of supervisors, two of
17 whom shall be representatives of nonprofit organizations that, at
18 least in part, represent medically uninsured and low-income
19 residents of the community, and one of whom represents health
20 care consumers in the community.

21 (5) The board of supervisors shall designate one committee
22 member to serve as chair.

23 (6) For purposes of subparagraphs (A), (B), and (C) of
24 paragraph (3), the board of supervisors shall request nominations
25 from organizations that the board determines are most
26 representative of the specified categories.

27 (c) (1) The HPR shall be completed within 180 days of notice
28 of the proposed downgrade or closure, and shall incorporate at
29 least two public hearings.

30 (2) If the HPR reveals that the capability of the community's
31 health care delivery system would be detrimentally affected by the
32 downgrade or closure, the hospital protection committee shall
33 include in the HPR a list of recommendations to mitigate the
34 detrimental impact, and make these recommendations available to
35 the board of supervisors, the department, the Legislature, and the
36 public, in order to attempt to preserve services deemed necessary
37 pursuant to the HPR. These recommendations shall include, but
38 shall not be limited to, all of the following:

39 (A) Recommendations for solutions for the community to deal
40 with possible financial troubles impacting the hospital.

1 (B) *Recommendations to the community to mitigate the impact*
2 *of the service change or closure on the ability to treat emergencies*
3 *of patients from surrounding communities of the hospital.*

4 (C) *Recommendations to the community to mitigate the impact*
5 *of the service change or closure on the uninsured, the elderly,*
6 *children, and other underrepresented groups in the service area of*
7 *the hospital.*

8 (D) *Recommendations to the community to mitigate the impact*
9 *of the service change or closure on the capability of the health care*
10 *delivery system to serve the surrounding community.*

11 (3) *The hospital protection committee shall conduct a public*
12 *hearing to release the results of the HPR, including any*
13 *recommendations required by this subdivision, no less than 180*
14 *days before the scheduled downgrade or closure. This hearing*
15 *shall be in addition to the hearings required by paragraph (1).*

16 (d) *For purposes of this section, “hospital” means a general*
17 *acute care hospital.*

18
19 CHAPTER 2. COMMUNITY RESPONSIBILITY CONTRACTS
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21 130510. (a) (1) *Commencing January 1, 2004, no person*
22 *shall obtain an ownership interest in more than one hospital*
23 *licensed under this chapter within the same county, or within a*
24 *25-mile radius, unless that person first obtains the approval of the*
25 *Attorney General and enters into a Community Responsibility*
26 *Contract (CRC) with the Attorney General pursuant to this*
27 *section.*

28 (2) *Any person in possession of an ownership interest in more*
29 *than one licensed hospital within the same county, or within a*
30 *25-mile radius, on January 1, 2004, shall enter into a CRC*
31 *pursuant to this section.*

32 (b) (1) *The purpose of the CRC shall be to ensure that private*
33 *hospitals do not place priority on financial profit and corporate*
34 *strategy to the exclusion of meeting essential community health*
35 *needs. The Attorney General, in consultation with the Office of*
36 *Statewide Health Planning and Development and the State*
37 *Department of Health Services, shall establish the specific terms*
38 *of the CRC, as well as initial approval criteria for multiple hospital*
39 *ownership. These criteria shall include, but shall not be limited to,*
40 *both of the following:*

1 (A) Providing community protections to ensure fair
2 competition, planning, and management of hospitals to ensure the
3 prioritization of community health needs.

4 (B) Requiring financial disclosure to ensure the prioritization
5 of community health services in service changes or closures.

6 (c) If the Attorney General determines that a change in service
7 proposed by a private hospital would be inconsistent with the terms
8 of the CRC, the hospital may not make the proposed change in
9 service.

10 (d) This section shall not apply to a public hospital, as defined
11 in paragraph (25) of subdivision (a) of Section 14105.98 of the
12 Welfare and Institutions Code.

13 (e) For purposes of this section, "ownership interest" does not
14 include any financial interest in or security issued by a business
15 entity, including, but not limited to, common stock, preferred stock,
16 rights, warrants, options, debt instruments, and any partnership or
17 other ownership interest owned directly, indirectly, or beneficially
18 by the person or his or her immediate family, that equals less than
19 10 percent of the value of the business entity.

20
21 CHAPTER 3. HOSPITAL COMMUNITY RESPONSIBILITY FUND

22
23 130520. (a) The Hospital Community Responsibility Fund is
24 hereby created in the State Treasury. The fund shall consist of
25 revenues from the fee assessed pursuant to subdivision (b). Upon
26 appropriation by the Legislature, moneys in the fund shall be used
27 for the purposes of implementing this division. No other state or
28 local funds shall be required to implement this division.

29 (b) An additional fee shall be added to the license or renewal
30 fee for a hospital subject to this division, pursuant to a formula to
31 be determined by the State Department of Health Services, to cover
32 the costs of implementing the division.

33 SEC. 4. Notwithstanding Section 17610 of the Government
34 Code, if the Commission on State Mandates determines that this
35 act contains costs mandated by the state, reimbursement to local
36 agencies and school districts for those costs shall be made
37 pursuant to Part 7 (commencing with Section 17500) of Division
38 4 of Title 2 of the Government Code. If the statewide cost of the
39 claim for reimbursement does not exceed one million dollars

1 *(\$1,000,000), reimbursement shall be made from the State*
2 *Mandates Claims Fund.*

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